

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NEAL WADE FIFI SR.,

Plaintiff,

v.

AMY FIELDS, *et al.*,

Defendants.

CASE NO. C21-0380-JCC

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable John C. Coughenour, United States District Judge:

This matter comes before the Court *sua sponte*. On March 22, 2021, Magistrate Judge Brian Tsuchida granted Plaintiff's motion to proceed *in forma pauperis* and recommended the complaint be reviewed under 28 U.S.C. § 1915(e)(2)(B) prior to the issuance of a summons. (Dkt. No. 4.)

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court must dismiss an *in forma pauperis* complaint at any time if the action fails to state a claim, raises frivolous or malicious claims, or seeks monetary relief from a defendant who is immune from such relief. Federal Rule of Civil Procedure 8 provides that in order to state a claim for relief, a pleading must contain "a short and plain statement of the grounds for the court's jurisdiction" and "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(1), (2). At a minimum, a

1 complaint must put defendants on notice of what wrongs they committed against the plaintiff.
2 *See McHenry v. Renne*, 84 F.3d 1172, 1180 (9th Cir. 1996). To avoid dismissal, a complaint
3 must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible
4 on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 664 (2009). The factual allegations must be “enough
5 to raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S.
6 544, 555 (2007). The complaint may be dismissed if it lacks a cognizable legal theory or states
7 insufficient facts to support a cognizable legal theory. *Zixiang v. Kerry*, 710 F.3d 995, 999 (9th
8 Cir. 2013). The Court liberally construes a *pro se* complaint. *See Hebbe v. Pliler*, 627 F.3d 338,
9 342 (9th Cir. 2010).

10 Even liberally construing Plaintiff’s complaint, the Court cannot find that it states a claim
11 upon which relief can be granted. Plaintiff names Amy Fields and Seattle Public Schools as
12 Defendants. (Dkt. No. 5 at 4.) He alleges that Amy Fields was found guilty of racial
13 discrimination by an investigator and he seeks damages for pain, suffering, and stress, which led
14 to a diagnosis of PTSD and the need for counseling and medical treatment. (Id. at 5.) While
15 Plaintiff’s complaint alleges that the Court has federal question jurisdiction, the complaint does
16 not identify the federal statutory or constitutional provisions that Plaintiff claims were violated or
17 provide any factual allegations regarding the alleged discrimination. Plaintiff must state what his
18 legal theory is and allege facts demonstrating that such theory plausibly entitles him to relief.

19 Although the Court finds the complaint fails to state a claim upon which relief can be
20 granted, it will not dismiss a claim unless “it is absolutely clear that no amendment can cure the
21 [complaint’s] defect.” *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995). Accordingly,
22 the Court ORDERS that Plaintiff shall file an amended complaint curing the above-identified
23 deficiencies no later than twenty-one (21) days from the date of this order.

24 In his amended complaint, Plaintiff must clearly identify the Defendant(s), the
25 constitutional or federal statutory basis for the claim(s) asserted, the specific facts which Plaintiff
26 believes support each claim, and the specific relief requested. Plaintiff is advised that an

1 amended complaint operates as a complete substitute for an original complaint. *See Ferdik v.*
2 *Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). If no amended complaint is timely filed or if
3 Plaintiff files an amended complaint that fails to correct the deficiencies identified above, the
4 Court may dismiss Plaintiff's claims under 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a
5 claim upon which relief may be granted.

6 DATED this 24th day of March 2021.

7 William M. McCool
8 Clerk of Court

9 s/Paula McNabb
10 Deputy Clerk